

DISABILITY AND COMMUNICATION ACCESS BOARD

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March 27, 2015

TESTIMONY TO THE HOUSE COMMITTEE ON HEALTH

House Concurrent Resolution 157/House Resolution 95 – Requesting the United States Congress to Examine the Fair Housing Amendments Act as it Relates to Emotional Support or Comfort Animals and to Take Any Actions Necessary to Prevent Abuses Thereof

The Disability and Communication Access Board (DCAB) supports the intent of House Concurrent Resolution 157/House Resolution 95 – Requesting the United States Congress to Examine the Fair Housing Amendments Act as it Relates to Emotional Support or Comfort Animals and to Take Any Actions Necessary to Prevent Abuses Thereof.

We support the intent of the resolution, because people with disabilities have varied needs that must be evaluated individually. A person's specific need for an emotional support or comfort animal may also vary. As an advocate for the rights of people with disabilities, we would not be in favor of amending the Fair Housing Act or its rules in a way that may limit the rights of an individual with a disability in housing regarding the use of assistance animals, but would support clarity to ensure that abuse is curbed or minimized.

The definition of an animal that is permitted under Federal Fair Housing or State housing laws differ (and is broader) than the definition of a service animal under the Americans with Disabilities Act. As a result, the number of calls to our office has increased regarding animals in condominiums or housing situations, especially about emotional support, comfort, and therapy dogs.

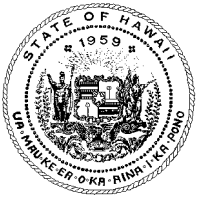
These resolutions urge the U.S. Congress to examine and clarify the intent of the Federal Fair Housing Act as it relates to emotional support or comfort animals. A uniform national policy may assist the landlord or association board to assess whether or not an individual is abusing the law by requesting a reasonable accommodation to have an emotional support or comfort animal reside with them when either the person does not have a disability or is a person with a disability that only has a pet.

Thank you for the opportunity to testify.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director



HAWAI‘I CIVIL RIGHTS COMMISSION

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March 27, 2015
Rm. 329, 9:15 a.m.

To: The Honorable Della Au Belatti, Chair
and Members of the House Committee on Health

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.C.R. No. 157 / H.R. No. 95

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

H.C.R. No. 157 and H.R. No. 95 request the United States Congress to examine the federal Fair Housing Act requirement that housing providers make reasonable accommodations necessary to afford a person with a disability equal opportunity to use and enjoy their housing, as it applies to requests for the use of an assistance animal, and to take “any actions necessary to prevent abuses thereof.”

The HCRC offers the following comments on H.C.R. No. 157 and H.R. No. 95:

The Department of Housing and Urban Affairs (HUD) Office of Fair Housing and Equal Opportunity (FHEO) enforces the federal Fair Housing Act (FHA). The HCRC enforces Hawai‘i’s fair housing law, HRS chapter 489.

Both the federal and state fair housing law require housing providers to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford a person with a disability equal use and enjoyment of their housing or dwelling. Under both federal and state law, modification of a “no-animal” policy may be a reasonable accommodation for a person with a disability for whom the use of an assistance animal is necessary to afford equal use and enjoyment of their housing or dwelling.

Our state fair housing law is substantially equivalent to the federal FHA. Consistent with federal fair housing law, both our statute, HRS § 515-3(9), and rules, HAR § 12-46-306(a)(1), provide strong protection for rights of persons with disabilities to request reasonable accommodations, including the use of an assistance animal when necessary to afford equal use and enjoyment of their housing or dwelling. A housing provider can request verification that the person has a disability, if it is not apparent, and that the assistance animal is needed to alleviate one or more symptoms of the person's disability, but is not allowed to request medical records or access to health care providers, and may not inquire as to the diagnosis, nature, or severity of the person's disability.

The HCRC urges that the legislature consider the value of the strong protections that federal and state fair housing law provide for persons with disabilities with respect reasonable accommodation requirements.